

VZCZCXYZ0003
RR RUEHWEB

DE RUEHC #8279 0832059
ZNR UUUUU ZZH
R 242037Z MAR 09
FM SECSTATE WASHDC
TO RUEHUNV/USMISSION UNVIE VIENNA 0000
INFO RUEHRL/AMEMBASSY BERLIN 0000
RUEHBR/AMEMBASSY BRASILIA 0000
RUEHBU/AMEMBASSY BUENOS AIRES 0000
RUEHLO/AMEMBASSY LONDON 0000
RUEHMO/AMEMBASSY MOSCOW 0000
RUEHOT/AMEMBASSY OTTAWA 0000
RUEHFR/AMEMBASSY PARIS 0000
RUEHRO/AMEMBASSY ROME 0000
RUEHSG/AMEMBASSY SANTIAGO 0000
RUEHKO/AMEMBASSY TOKYO 0000
RUEHGV/USMISSION GENEVA 0000
RUCNDT/USMISSION USUN NEW YORK 0000

UNCLAS STATE 028279

SIPDIS

E.O. 12958: N/A

TAGS: [TSPA](#) [UNPUOS](#) [UNGA](#) [AORC](#)

SUBJECT: COPUOS: GUIDANCE FOR THE 48TH SESSION OF THE
LEGAL SUBCOMMITTEE (LSC) OF THE UN COMMITTEE ON THE
PEACEFUL USES OF OUTER SPACE, MARCH 23-APRIL 3, 2009

REF: (A) STATE 11917 (B) STATE 12948 (C) UNVIEVIENNA
103 (D) MOSCOW 556 (E) STATE 2007

11. FOLLOWING IS GUIDANCE FOR THE 48TH SESSION OF THE LEGAL
SUBCOMMITTEE OF THE UN COMMITTEE ON THE PEACEFUL USES OF
OUTER SPACE (COPUOS). IT IS DIVIDED INTO A GENERAL OVERVIEW
AND GUIDANCE FOR SPECIFIC AGENDA ITEMS.

GENERAL OVERVIEW

12. THIS YEAR, S LEGAL SUBCOMMITTEE OFFERS POTENTIAL FOR
ADVANCING USG INTERESTS ON SEVERAL FRONTS. THE LEGAL
SUBCOMMITTEE (&LSC8) REMAINS AN IMPORTANT FORUM FOR SHAPING
THE SPACE LEGAL AND REGULATORY ENVIRONMENT. U.S. ENGAGEMENT
WITH THE LSC HELPS TO PROTECT AND ADVANCE U.S. INTERESTS
RELATING TO SPACE ACTIVITIES, PARTICULARLY AS THE USE OF
OUTER SPACE INCREASES. USDEL SHOULD BUILD ON THE POSITIVE AND
CONSTRUCTIVE ATMOSPHERE OF THE LAST SESSION OF THE SCIENTIFIC
AND TECHNICAL SUBCOMMITTEE WHERE WE SUCCEEDED IN MAKING
PROGRESS ON A RANGE OF IMPORTANT ISSUES, AS WELL AS IN
REINFORCING USG LEADERSHIP IN THE SUBCOMMITTEE AND WESTERN
CAUCUS.

13. COLLISION OF IRIDIUM AND COSMOS 2251 SATELLITES:
REFTELS B, C AND D CONTAIN INFORMATION CONCERNING THE
COLLISION OF AN IRIDIUM SATELLITE AND RUSSIA'S COSMOS 2251,
NOTIFICATION PROVIDED BY U.S. DELEGATION AT THE COPUOS
SCIENTIFIC AND TECHNICAL SUBCOMMITTEE, AND SUBSEQUENT
EXCHANGES OF INFORMATION WITH THE RUSSIAN FEDERATION. THE
U.S. DELEGATION WILL HAVE CONTINGENCY POINTS SHOULD QUESTIONS
ARISE IN THE MEETING OR ON THE MARGINS. THE U.S. DELEGATION
MAY DRAW UPON THE FOLLOWING ADDITIONAL POINTS AS NECESSARY:

- AS A RESULT OF THE FEBRUARY 10, 2008, COLLISION OF THE
IRIDIUM-33 AND COSMOS 2251 SATELLITES, THE U.S. DEPARTMENT OF
DEFENSE IS NOW CONDUCTING AN ASSESSMENT OF THE PROCESSES AND
PROCEDURES CURRENTLY EMPLOYED FOR MONITORING SPACE OBJECTS,
PERFORMING ORBITAL CONJUNCTION ANALYSES, AND REPORTING
PERTINENT FINDINGS TO CONCERNED PARTIES.

- RESULTS FROM THIS ASSESSMENT ARE EXPECTED LATER THIS SPRING.

- THE UNITED STATES LOOKS FORWARD TO DISCUSSING RESULTS FROM
THIS ASSESSMENT AT THE 52ND SESSION OF COPUOS THIS JUNE IN
VIENNA.

- THE UNITED STATES ALSO INTENDS TO DISCUSS RESULTS OF THE
USG'S ASSESSMENT WITH INTERESTED GOVERNMENT AND PRIVATE

SECTOR SATELLITE OPERATORS.

- THIS INCIDENT SERVES AS A REMINDER OF THE IMPORTANCE OF THE LONG-STANDING PRINCIPLE OF COOPERATION AND MUTUAL ASSISTANCE IN THE EXPLORATION AND USE OF OUTER SPACE.

-- THE UNITED STATES HAS ALREADY RECEIVED TECHNICAL INFORMATION FROM RUSSIA ON THIS EVENT, WHICH SERVES AS A USEFUL CONTRIBUTION TO THE U.S. ASSESSMENT.

-- THE UNITED STATES CONTINUES TO SUPPORT DISCUSSIONS ON PRAGMATIC PROPOSALS TO ENSURE THE LONG-TERM SUSTAINABILITY OF THE SPACE ENVIRONMENT.

-- THIS INCIDENT ALSO CAN SERVE AS AN IMPETUS TO INCREASE AND IMPROVE BILATERAL AND MULTILATERAL TRANSPARENCY AND CONFIDENCE BUILDING MEASURES (TCBMS) RELATING TO SPACE ACTIVITIES.

¶4. ARMS CONTROL: THE ISSUE OF SPACE ARMS CONTROL MAY BE A MAJOR ISSUE GIVEN THE NEW U.S. ADMINISTRATION. IF THIS OCCURS, USDEL SHOULD STRESS THAT COPUOS IS CONCERNED EXCLUSIVELY WITH INTERNATIONAL COOPERATION IN THE PEACEFUL USES OF OUTER SPACE, AS INDICATED BY ITS TITLE. THE FIRST COMMITTEE OF THE UNGA (DISARMAMENT AND INTERNATIONAL SECURITY) AND THE CD WOULD BE THE MORE APPROPRIATE MULTILATERAL FORA TO DISCUSS ARMS CONTROL MATTERS RELATED TO OUTER SPACE. OUR OBJECTIVE IN COPUOS AND ITS SUBCOMMITTEES IS TO UNDERSCORE THE UNPRECEDENTED INTERNATIONAL SPACE COOPERATION NOW UNDERWAY AND REINFORCE OPPOSITION TO CALLS IN THE CD FOR ARMS CONTROL NEGOTIATIONS ON OUTER SPACE. THE U.S. DELEGATION MAY DRAW ON THE FOLLOWING ADDITIONAL POINTS AS NECESSARY:

-- THERE IS UNPRECEDENTED INTERNATIONAL COOPERATION IN SPACE.

-- THE LAWFUL MILITARY USES OF SPACE HAVE BROAD BENEFITS FOR THE INTERNATIONAL COMMUNITY AND ENHANCE INTERNATIONAL PEACE AND SECURITY. EXAMPLES INCLUDE TREATY COMPLIANCE/MONITORING, COMMUNICATIONS, ENVIRONMENTAL MONITORING, GPS, REFUGEE TRACKING, COUNTERTERRORISM, AND SANCTIONS ENFORCEMENT.

-- IF THE U.S. DELEGATION IS PRESSED ABOUT THE ADMINISTRATION'S STATEMENT ON THE WHITE HOUSE DEFENSE WEB SITE FOR A WORLDWIDE BAN ON WEAPONS THAT INTERFERE WITH MILITARY AND COMMERCIAL SATELLITES (SEE NOTE BELOW FOR EXACT STATEMENT), THE U.S. DELEGATION WILL STATE THAT THE NEW ADMINISTRATION IS IN THE PROCESS OF REVIEWING ALL POLICIES AS A NATURAL PART OF THE GOVERNMENT TRANSITION PROCESS.

-- IF FURTHER PRESSED REGARDING CONTINUITY IN U.S. SPACE POLICY, USDEL MAY ALSO NOTE THAT:

--- IT IS A PART OF LONG-STANDING U.S. SPACE POLICY THAT THE UNITED STATES WILL MAINTAIN AND STRENGTHEN THE ESTABLISHED PRINCIPLE OF FREE ACCESS TO, AND USE OF, OUTER SPACE BY ALL NATIONS IN SUPPORT OF LEGITIMATE ECONOMIC AND SECURITY INTERESTS.

--- AS SPACE BECOMES AN INCREASINGLY CONGESTED AND COMPLEX DOMAIN, THE UNITED STATES WILL TAKE AN ACTIVE LEADERSHIP ROLE IN IDENTIFYING AND IMPLEMENTING COOPERATIVE EFFORTS WITH ESTABLISHED AND EMERGING MEMBERS OF THE INTERNATIONAL SPACEFARING COMMUNITY TO ENSURE THE SAFETY OF THE SPACE ASSETS OF ALL NATIONS.

--- BUILDING UPON RECENT PROGRESS AT THE UNITED NATIONS ON INTERNATIONAL GUIDELINES FOR ORBITAL DEBRIS MITIGATION, THE UNITED STATES WILL SUSTAIN ITS GLOBAL LEADERSHIP IN SPACEFLIGHT SAFETY AND IN THE FORMULATION OF PRACTICAL GUIDELINES TO PRESERVE THE SPACE ENVIRONMENT FOR FUTURE GENERATIONS.

NOTE: THE STATEMENT ON WWW.WHITEHOUSE.GOV/AGENDA/DEFENSE SITE READS: &BUILD DEFENSE CAPABILITIES FOR THE 21ST CENTURY; ENSURE FREEDOM OF SPACE: THE OBAMA-BIDEN ADMINISTRATION WILL RESTORE AMERICAN LEADERSHIP ON SPACE ISSUES, SEEKING A WORLDWIDE BAN ON WEAPONS THAT INTERFERE

WITH MILITARY AND COMMERCIAL SATELLITES. THEY WILL THOROUGHLY ASSESS POSSIBLE THREATS TO U.S. SPACE ASSETS AND THE BEST OPTIONS, MILITARY AND DIPLOMATIC, FOR COUNTERING THEM, ESTABLISHING CONTINGENCY PLANS TO ENSURE THAT U.S. FORCES CAN MAINTAIN OR DUPLICATE ACCESS TO INFORMATION FROM SPACE ASSETS AND ACCELERATING PROGRAMS TO HARDEN U.S. SATELLITES AGAINST ATTACK.⁸

15. OUTER SPACE "CODE OF CONDUCT:" THE ISSUE OF PROPOSALS FOR AN OUTER SPACE "CODE OF CONDUCT" WILL PROBABLY NOT BE A MAJOR ISSUE, BUT SOME DELEGATIONS MAY SEEK CLARIFICATION OF THE NEW ADMINISTRATION'S POSITION. THESE REQUESTS FOR CLARIFICATION MAY NOTE A DRAFTING PROJECT FOR A "CODE OF CONDUCT FOR OUTER SPACE ACTIVITIES" THAT WAS ENDORSED IN DECEMBER 2008 BY THE COUNCIL OF THE EUROPEAN UNION. (REFTEL E). IF RAISED, THE U.S. DELEGATION MAY DRAW UPON THE FOLLOWING POINTS AS NECESSARY:

-- THE UNITED STATES WILL PLAY A LEADING ROLE IN ADVANCING TRANSPARENCY AND CONFIDENCE BUILDING MEASURES (TCBMS) RELATING TO SPACE ACTIVITIES. SUCH TCBMS CAN HELP INCREASE TRANSPARENCY REGARDING GOVERNMENTAL SPACE POLICIES, STRATEGIES AND POTENTIALLY HAZARDOUS ACTIVITIES. THIS CAN HELP TO REDUCE UNCERTAINTY OVER INTENTIONS AND DECREASING THE RISK OF MISINTERPRETATION OR MISCALCULATION.

-- IN THIS REGARD, THE ADMINISTRATION WILL CONTINUE TO WORK CLOSELY WITH OUR FRIENDS AND ALLIES IN EUROPE AND ELSEWHERE TO DEVELOP VOLUNTARY TCBMS THAT ALL SPACEFARING NATIONS CAN SUPPORT AND ACTIVELY PARTICIPATE IN FOR THE BENEFIT OF ALL NATIONS.

-- ANY INTERNATIONAL EFFORT TO DEVELOP TCBMS SHOULD COMPLEMENT, AND NOT UNNECESSARILY DUPLICATE, THE WORK OF THE COPUOS.

-- IN SUPPORT OF THIS PRINCIPLE IN TODAY'S ENVIRONMENT, IT IS IMPORTANT THAT THE UNITED STATES WORK CLOSELY WITH ITS ALLIES TO IMPLEMENT THE DIPLOMATIC OR MILITARY MEASURES THAT MAY BE NECESSARY BOTH TO ENSURE THE CONTINUED OPERATION (AND RESPONSIBLE USE) OF MILITARY, INTELLIGENCE, CIVIL, AND COMMERCIAL SATELLITES AND TO RESPOND APPROPRIATELY IF THESE SATELLITES ARE TARGETED IN A HOSTILE MANNER.

16. MILITARY SPACE ACTIVITIES: THE NATURE AND CONDUCT OF U.S. MILITARY SPACE ACTIVITIES WILL PROBABLY NOT BE A MAJOR ISSUE. HOWEVER, SOME DELEGATIONS MAY RAISE VARIOUS U.S. MILITARY ACTIVITIES AS A TACTICAL DEVICE TO UNDERCUT U.S. EFFORTS TO PROMOTE GENERAL AND UNIVERSAL PRINCIPLES FOR SPACEFLIGHT SAFETY. IF RAISED, THE U.S. DELEGATION MAY DRAW ON FOLLOWING POINTS, AS NECESSARY:

-- THE LAWFUL MILITARY USES OF SPACE HAVE BROAD BENEFITS FOR THE INTERNATIONAL COMMUNITY AND ENHANCE INTERNATIONAL PEACE AND SECURITY. SOME EXAMPLES INCLUDE TREATY COMPLIANCE/MONITORING, COMMUNICATIONS, ENVIRONMENTAL MONITORING, GPS, REFUGEE TRACKING, COUNTERTERRORISM, AND SANCTIONS ENFORCEMENT.

-- THE UNITED STATES IS COMMITTED TO THE PRINCIPLE THAT ALL SPACEFLIGHT OPERATIONS SHOULD BE CONDUCTED IN A SAFE AND RESPONSIBLE MANNER THAT PROTECTS HUMANS IN SPACE AS WELL AS ROBOTIC SPACE SYSTEMS AND THEIR MISSION EFFECTIVENESS.

--- (IF ASKED) THE U.S. COMMITMENT TO SAFETY AND TRANSPARENCY ALSO WAS EXHIBITED IN LAST YEAR'S ENGAGEMENT OF THE DISABLED USA-193 SATELLITE.

17. AGENDA ITEM 4 - STATUS AND APPLICATION OF THE FIVE UNITED NATIONS TREATIES ON OUTER SPACE: THE SUBCOMMITTEE COMPLETED AT ITS 39TH SESSION A MULTI-YEAR WORK PLAN TO REVIEW THE STATUS OF THE UN SPACE TREATIES UNDER A SEPARATE AGENDA ITEM. DURING THE LIFE OF THIS ITEM, THERE WAS LITTLE IF ANY DISCUSSION OF REOPENING THE TREATIES OR ANY PROPOSALS FOR THEIR REVISION OR AMENDMENT (FYI: THERE HAS NOT BEEN ANY SERIOUS EFFORT IN THE LSC TO REOPEN OR AMEND THE EXISTING TREATIES. WE NOTE, HOWEVER, THAT OVER THE PAST SEVERAL YEARS THE RUSSIAN DELEGATION REPEATEDLY INTRODUCED ITS PROPOSAL TO

EXAMINE THE FEASIBILITY OF DEVELOPING A COMPREHENSIVE CONVENTION ON SPACE LAW, WITH SOME SUPPORT FROM THE GREEK DELEGATION, AND THE CONCEPT OF CONVENING AN AD HOC INFORMAL WORKING GROUP TO CONSIDER THE DESIRABILITY OF DEVELOPING SUCH A UNIVERSAL COMPREHENSIVE SPACE LAW CONVENTION WAS AGAIN SUPPORTED BY SOME DELEGATIONS. AT THE 2001 LSC MEETING, CHINA, COLOMBIA, AND THE RUSSIAN FEDERATION SUBMITTED A WORKING PAPER ADDRESSING THIS POSSIBILITY. COPUOS AND THE LEGAL SUBCOMMITTEE DO NOT HAVE THE MANDATE TO REVISE THESE INSTRUMENTS. EACH TREATY HAS A SPECIFIC PROCESS FOR AMENDMENT INVOLVING ONLY THE STATES PARTIES (END FYI). INSTEAD, THE FOCUS ON THIS AGENDA ITEM WAS KEPT ON THE KEY POINTS: MORE COUNTRIES SHOULD CONSIDER ACCEDING TO THE FOUR CORE CONVENTIONS, AND SHOULD THEN CONSCIENTIOUSLY IMPLEMENT THOSE THAT THEY HAVE ACCEPTED. UNDER THIS ITEM, USDEL SHOULD REPORT ON ACTIONS TAKEN WITH RESPECT TO THE TREATIES IN THE PAST YEAR, NOTE THAT THE TREATIES CONTINUE TO WORK WELL, ENCOURAGE STATES TO CONTINUE THEIR COMPLIANCE WITH THE FOUR CORE TREATIES, AND ENCOURAGE STATES THAT HAVE NOT ADHERED TO THE FOUR CORE TREATIES TO CONSIDER DOING SO PROMPTLY. AT ITS 40TH SESSION, THE SUBCOMMITTEE DECIDED TO ESTABLISH A WORKING GROUP UNDER THIS ITEM, THE LIMITED TERMS OF REFERENCE OF WHICH WOULD INCLUDE THE STATUS OF PARTICIPATION IN THE TREATIES, REVIEW OF THEIR IMPLEMENTATION AND OBSTACLES TO THEIR UNIVERSAL ACCEPTANCE, AS WELL AS PROMOTION OF SPACE LAW, ESPECIALLY THROUGH THE UN PROGRAMME ON SPACE APPLICATIONS. AT THAT TIME, U.S. DELEGATION WAS SUCCESSFUL IN NARROWING THE MANDATE OF THE WORKING GROUP FROM THE ORIGINAL PROPOSAL, WHICH COULD HAVE INCLUDED CONSIDERATION OF A UNIVERSAL SPACE TREATY. AT ITS 41ST SESSION, THE SUBCOMMITTEE AGREED THAT THIS WORKING GROUP COULD CONSIDER NEW ISSUES, PROVIDED THAT THOSE ISSUES FELL WITHIN THE EXISTING MANDATE OF THE WORKING GROUP. THE WORKING GROUP WAS RECONVENED IN 2008. IT WAS AGREED TO RECONVENE THE WORKING GROUP FOR THE 48TH SESSION AND THAT THE SUBCOMMITTEE WOULD REVIEW THE NEED TO EXTEND THE WORKING GROUP. THE U.S. DELEGATION SHOULD NOT OBJECT TO SUCH AN EXTENSION.

THE SUBCOMMITTEE AGREED THAT THE WORKING GROUP WOULD CONTINUE CONSIDERING IN 2009 THE LOW PARTICIPATION OF STATES IN THE MOON AGREEMENT. IN SO DOING THE WORKING GROUP COULD ADDRESS ACTIVITIES CURRENTLY BEING CARRIED OUT OR TO BE CARRIED OUT ON THE MOON; IDENTIFY THE BENEFITS OF ADHERENCE TO THE MOON AGREEMENT; IDENTIFY THE INTERNATIONAL AND NATIONAL RULES GOVERNING ACTIVITIES ON THE MOON; AND ASSESS WHETHER EXISTING INTERNATIONAL RULES ADEQUATELY ADDRESS ACTIVITIES ON THE MOON. THE SECRETARIAT WILL ALSO PREPARE A BACKGROUND PAPER ON THE ABOVE TOPICS BASED PRIMARILY ON INFORMATION PROVIDED BY MEMBER STATES. THE U.S. DELEGATION WILL DELIVER A STATEMENT IN THE WORKING GROUP ADDRESSING THESE ISSUES.

18. AGENDA ITEM 5 - ACTIVITIES OF INTERNATIONAL ORGANIZATIONS RELATING TO SPACE LAW: THE U.S. DELEGATION SHOULD REITERATE U.S. CONCERN THAT SOME MAJOR INTERNATIONAL ORGANIZATIONS INVOLVED IN SPACE ACTIVITIES ARE NOT SUBJECT TO THE CORE SPACE TREATIES BECAUSE NOT ENOUGH OF THEIR MEMBER COUNTRIES ARE PARTIES.

19. AGENDA ITEM 6 - DELIMITATION OF OUTER SPACE/USE OF GEOSTATIONARY ORBIT (GSO): THE U.S. DELEGATION WILL CONTINUE TO OPPOSE ANY PROPOSALS TO DEFINE OR DELIMIT OUTER SPACE, OR TO ESTABLISH ANY NEW LEGAL STATUS OR RULES APPLICABLE TO THE GSO, OR TO RECOGNIZE ANY SPECIAL INTERESTS OF EQUATORIAL STATES IN THE GSO. THE U.S. DELEGATION MAY POINT OUT THAT MANY YEARS OF DEBATE HAVE NOT FURTHERED LSC UNDERSTANDING OF THE DELIMITATION ISSUES AND THAT NO REAL-WORLD PROBLEMS HAVE ARISEN OVER THE MORE THAN 40 YEARS OF SPACE USE AND EXPLORATION FROM THE ABSENCE OF ANY DEFINITION/DELIMITATION OF OUTER SPACE. TO THE CONTRARY, ATTEMPTS TO ESTABLISH AN ARBITRARY LINE BETWEEN AIRSPACE AND OUTER SPACE MAY CREATE CONFUSION OR OTHERWISE HINDER THE PEACEFUL USE AND EXPLORATION OF SPACE. FAA LICENSING AND REGULATION OF REUSABLE LAUNCH VEHICLES INCLUDING SUBORBITAL VEHICLES HAVE NOT BEEN HAMPERED BY THE ABSENCE OF ANY DELIMITATION OF OUTER SPACE. (IF ASKED: IN CLARIFYING ITS LICENSING AUTHORITY OVER LAUNCH OF A LAUNCH VEHICLE, THE FAA DEFINES LAUNCH OF A SUBORBITAL ROCKET USING THE LAWS OF PHYSICS AND DOES NOT RELY UPON ALTITUDE OR OTHER DISCRIMINATOR IN DIFFERENTIATING LAUNCH VEHICLES FROM CIVIL AIRCRAFT. FURTHER, A SUBORBITAL ROCKET IS DEFINED BY STATUTE AS A VEHICLE, ROCKET PROPELLED

IN WHOLE OR IN PART, INTENDED FOR FLIGHT ON A SUBORBITAL TRAJECTORY, AND THE THRUST OF WHICH IS GREATER THAN ITS LIFT FOR THE MAJORITY OF THE ROCKET-POWERED PORTION OF ITS ASCENT.) WITH RESPECT TO THE USE OF THE GSO, THE UNITED STATES REJECTS ANY CLAIMS TO SOVEREIGNTY BY ANY NATION OVER OUTER SPACE AND OPPOSES ANY INITIATIVE TO CREATE A REGIME THAT WOULD PROVIDE A BASIS FOR A CLAIM TO THE GSO. TO THE EXTENT THAT OTHER NATIONS RAISE "EQUITABLE ACCESS" ISSUES, THE U.S. DELEGATION SHOULD WORK WITH LIKE-MINDED DELEGATIONS AND, AS APPROPRIATE, WITH THE INTERNATIONAL TELECOMMUNICATION UNION (ITU) AND OTHER INTERNATIONAL ORGANIZATION REPS PRESENT TO SEEK TO PREVENT ANY ACTION IN THE LSC THAT COULD UNDERMINE THE POSITION OF SPACEFARING NATIONS ON THIS ISSUE AT THE ITU. THE ITU CONSTITUTION, CONVENTION AND RADIO REGULATIONS, AS WELL AS THE CURRENT PROCEDURES UNDER THOSE AUTHORITIES FOR INTERNATIONAL COOPERATION AMONG COUNTRIES AND GROUPS OF COUNTRIES WITH RESPECT TO THE GEOSTATIONARY AND OTHER ORBITS, FULLY TAKE INTO ACCOUNT THE INTERESTS OF STATES IN THE USE OF THE GEOSTATIONARY ORBIT AND THE RADIO FREQUENCY SPECTRUM. THE DELEGATION SHOULD NOTE THAT THE LEGAL SUBCOMMITTEE DOES RETAIN JURISDICTION OVER THIS ISSUE, ALTHOUGH THERE IS NO NEED FOR ANY ACTION AT THE PRESENT TIME.

10. AGENDA ITEM 7 - NUCLEAR POWER SOURCES (NPS) IN OUTER SPACE: THE SCIENTIFIC AND TECHNICAL SUBCOMMITTEE (STSC) COMPLETED A MULTI-YEAR WORK PLAN ON THIS TOPIC AT ITS 2003 SESSION. AT THE 2003 SESSION, THE STSC ALSO ADOPTED A NEW MULTI-YEAR WORK PLAN ON NPS THAT WAS CO-SPONSORED BY THE UNITED STATES. THAT NEW WORK PLAN, WHICH WAS TO RUN THROUGH 2006, CONSISTED OF EFFORTS TO ESTABLISH THE OBJECTIVES, SCOPE AND ATTRIBUTES OF AN INTERNATIONAL, TECHNICALLY-BASED FRAMEWORK OF GOALS AND RECOMMENDATIONS FOR THE SAFETY OF PLANNED AND CURRENTLY FORESEEABLE SPACE NUCLEAR POWER SOURCE APPLICATIONS.⁸ IN 2005, THE STSC EXTENDED THE MULTI-YEAR NPS WORK PLAN TO 2007 TO ALLOW MORE TIME FOR THE SUBCOMMITTEE TO WORK ON THIS TOPIC. IN 2007, THE STSC COMPLETED ITS WORK TO DEVELOP THE OBJECTIVES, SCOPE, AND ATTRIBUTES OF A SAFETY FRAMEWORK AND REACHED CONSENSUS TO PURSUE A JOINT EFFORT WITH THE IAEA TO DEVELOP AN INTERNATIONAL SAFETY FRAMEWORK OVER THE NEXT THREE YEARS. THE STSC APPROVED A NEW WORK PLAN THAT CALLED FOR A JOINT GROUP OF EXPERTS DRAWING FROM INTERESTED STSC MEMBER STATES AND THE IAEA TO DEVELOP THE FRAMEWORK FOR APPROVAL BY THE STSC AND THE IAEA. AT THE LAST SESSION OF THE STSC, CONSENSUS WAS REACHED ON THE FRAMEWORK. IT IS EXPECTED THAT THE IAEA WILL ENDORSE THE FRAMEWORK IN APRIL OPENING THE WAY FOR ADOPTION BY COPUOS IN JUNE. IN THE LEGAL SUBCOMMITTEE, THE U.S. DELEGATION SHOULD TAKE THE POSITION THAT THERE IS NO PRESENT REASON FOR THE LSC TO ADDRESS THIS TOPIC IN ANY SUBSTANTIVE MANNER IN VIEW OF THE ACTIVITY ONGOING IN THE STSC. FURTHER, THE SAFETY FRAMEWORK FOR NUCLEAR POWER SOURCE APPLICATIONS IN OUTER SPACE IS NOT BEING DRAFTED AS A LEGALLY BINDING DOCUMENT AND THAT FACT HAS BEEN NOTED REPEATEDLY THROUGHOUT ITS DEVELOPMENT. THE U.S. DELEGATION SHOULD OPPOSE ANY PROPOSAL THAT IT BELIEVES COULD IMPEDE THE U.S. ABILITY TO DEVELOP AND USE THESE SYSTEMS, AS SPECIFIED IN OUR NATIONAL SPACE POLICY AND OPPOSE ANY PROPOSAL THAT THE FRAMEWORK BECOME A LEGALLY BINDING DOCUMENT. THE U.S. DELEGATION ALSO MAY DRAW UPON THE FOLLOWING ADDITIONAL POINTS AS NECESSARY:

SHOULD THE LSC TAKE UP THE NEWLY ADOPTED FRAMEWORK AS AN AGENDA TOPIC?

--THE FRAMEWORK PROVIDES VOLUNTARY, HIGH-LEVEL GUIDANCE THAT ADDRESSES NUCLEAR SAFETY CONSIDERATIONS FOR RELEVANT LAUNCH, OPERATIONS AND END-OF-SERVICE MISSION PHASES OF SPACE NUCLEAR POWER APPLICATIONS, AND AS SUCH, PRESENTS NO LEGAL ISSUES FOR THE LSC TO ADDRESS.

SHOULD THE LSC RE-OPEN, THE PRINCIPLES GIVEN THE ADOPTION OF THE SAFETY FRAMEWORK?

--THE PREFACE TO THE FRAMEWORK EXPLICITLY STATES THAT IT NEITHER ALTERS NOR SUPPLEMENTS EXISTING TREATIES OR PRINCIPLES; THEREFORE, NO RATIONALE EXISTS FOR REOPENING THE LSC'S DISCUSSION OF THE PRINCIPLES BASED ON THE ADOPTION OF THE FRAMEWORK.

--THE STSC, WHILE HAVING ADOPTED THE FRAMEWORK, HAS DIRECTED THE NPS WORKING GROUP TO HOLD INTERSESSIONAL DISCUSSIONS IN ADVANCE OF THE STSC FEBRUARY 2010 MEETING TO CONSIDER NEW WORK WITHIN THE STSC THAT COULD ENHANCE THE SAFETY OF SPACE NPS APPLICATIONS.

--SUCH DISCUSSIONS, AND THE POTENTIAL FOR A NEW STSC NPS WORKING GROUP WORK PLAN, INDICATE THAT FURTHER WORK IN ESTABLISHING A FIRM SCIENTIFIC AND TECHNICAL FOUNDATION FOR NPS MAY STILL EXIST; CONSEQUENTLY, IT IS PREMATURE TO ADDRESS REVISING THE 1992 PRINCIPLES TO THE LSC.

11. AGENDA ITEM 8 - SPACE ASSETS PROTOCOL: INDICATIVE OF THE CONTINUED INTEREST IN EXPANDING COMMERCIAL ACTIVITY AND AVAILABILITY OF PRIVATE SECTOR FINANCE IN SPACE IS THE WORK BEING DONE BY THE INTERNATIONAL INSTITUTE FOR THE UNIFICATION OF PRIVATE LAW (UNIDROIT), AN INTERGOVERNMENTAL BODY HEADQUARTERED IN ROME. IN NOVEMBER 2001, A DIPLOMATIC CONFERENCE OF UNIDROIT MEMBERS ADOPTED A CONVENTION ON INTERNATIONAL INTERESTS IN MOBILE EQUIPMENT AND A PROTOCOL THERETO ON AIRCRAFT EQUIPMENT. THIS CONVENTION PROVIDES FOR THE CREATION OF NEW INTERNATIONAL FINANCE RIGHTS AND REGISTRATION OF SECURED FINANCE INTERESTS IN HIGH-VALUE MOBILE EQUIPMENT. THE UNITED STATES HAS RATIFIED BOTH THE CONVENTION AND THE AIRCRAFT FINANCE PROTOCOL, AND THE TREATY ALREADY COVERS OVER HALF OF THE WORLD'S TRANSACTIONS ON LARGER COMMERCIAL AIRCRAFT.

INTER-GOVERNMENTAL NEGOTIATIONS ARE EXPECTED TO RESUME AT UNIDROIT ON A PROTOCOL THAT WOULD CONCERN SPACE ASSETS AND THAT WOULD FACILITATE ASSET-BASED FINANCING OF SPACE ACTIVITIES. FURTHER INTERGOVERNMENTAL MEETINGS WERE DEFERRED WHILE A SECOND PROTOCOL WAS CONCLUDED COVERING RAILWAY INTERESTS. NOW THAT THAT HAS BEEN DONE, INFORMAL MEETINGS WILL START UP AGAIN IN MAY 2009 BETWEEN KEY SPACE FARING STATES AND SPACE-BASED INTERESTS TWO SUCH MEETINGS WERE HELD IN 2008 IN BERLIN WHICH EVIDENCED CONSIDERABLE SUPPORT FOR THE PROTOCOL, ALTHOUGH SIGNIFICANT PROBLEMS REMAIN ON WHICH CONSENSUS HAS NOT BEEN REACHED.

UNRESOLVED ISSUES INCLUDE HOW TO DEAL WITH PUBLIC SERVICES (YET TO BE DEFINED). GIVEN THE DEFERENCE ALREADY IN THE DRAFT TEXT TO NATIONAL REGULATORY REGIMES (SUPPORTED BY THE UNITED STATES, SO THAT NO LIMITATIONS WOULD BE CREATED, FOR EXAMPLE, TO FCC'S LICENSING AND INTERAGENCY RESPONSIBILITIES OR THE APPLICATION OF EXPORT OR TECHNOLOGY CONTROLS), CONCERNS HAVE BEEN RAISED BY THE SPACE INDUSTRY THAT IF ECONOMICALLY UNMANAGEABLE OBLIGATIONS TO PROVIDE PUBLIC SERVICES ARE ALSO INCLUDED, THE RISKS MAY WELL OUTWEIGH THE POTENTIAL BENEFIT OF THE PROTOCOL. OTHER PROBLEMS INCLUDE THE FINANCING TREATMENT OF COMPONENTS WITHIN SPACE CRAFTS AND THE TREATMENT OF SATELLITE GROUPS OR CONSTELLATIONS FOR FINANCING PURPOSES.

UNIDROIT HAS THROUGHOUT SOUGHT INPUT FROM COPUOS. THE SUBCOMMITTEE HAS BEEN CONSIDERING THE SPACE ASSETS PROTOCOL AS A SINGLE ISSUE ITEM. THE UN OFFICE FOR OUTER SPACE AFFAIRS (UNOOSA) AND UNIDROIT SECRETARIATS REMAIN IN CONSULTATION ON THESE MATTERS, A PROCESS THE UNITED STATES HAS SUPPORTED.

THE USG REMAINS SUPPORTIVE OF THE GOALS OF THE PROPOSED SPACE ASSETS PROTOCOL, AND THE UNIDROIT PROJECT ENJOYS SUPPORT FROM THE U.S. PRIVATE SECTOR AS A MEANS TO MAKE MORE PRIVATE SECTOR CAPITAL MARKET FUNDING AVAILABLE FOR COMMERCIAL SPACE ACTIVITIES.

IT IS OUR VIEW, WHICH HAS BEEN GENERALLY ACCEPTED, THAT THE SPACE ASSETS PROTOCOL SHOULD STATE CLEARLY THAT IT WILL NOT AFFECT STATE PARTY RIGHTS AND OBLIGATIONS UNDER THE OUTER SPACE TREATIES OR THE INTERNATIONAL TELECOMMUNICATION UNION'S TREATY REGIME. IN ADDITION, THE UNITED STATES SHOULD ENSURE THAT THE SPACE ASSETS PROTOCOL CONTINUES TO STATE CLEARLY THAT IT DEFERS TO DOMESTIC REGULATORY PROCESSES RELATING TO SPACE ACTIVITIES. THESE POINTS ENJOY SUBSTANTIAL SUPPORT FROM OTHER DELEGATIONS BOTH AT COPUOS AND AT UNIDROIT.

IN REGARD TO THE RELATIONSHIP BETWEEN THE TERMS OF THE DRAFT

PROTOCOL AND RIGHTS AND OBLIGATIONS OF STATES UNDER THE OUTER SPACE LEGAL REGIME, A NUMBER OF DELEGATIONS HAVE PREVIOUSLY STATED THAT THERE WAS NO APPARENT CONFLICT BETWEEN THE TWO TREATY REGIMES, WHICH IS CONSISTENT WITH THE U.S. POSITION. MOREOVER, NO OTHER STATE IDENTIFIED A PARTICULAR CONFLICT, ALTHOUGH RUSSIA AND INDIA EXPRESSED THE VIEW THAT IN CERTAIN UNDEFINED CIRCUMSTANCES, THERE COULD BE CONTRADICTIONS BETWEEN THE TWO REGIMES.

WITH REGARD TO PREVIOUS PROPOSALS THAT THE UN SECGEN (EFFECTIVELY OOSA) MIGHT SERVE AS A SUPERVISING AUTHORITY FOR A NEW REGISTRY OF FINANCIAL INTERESTS TO BE ESTABLISHED UNDER THE PROTOCOL, THAT HAS BEEN WITHDRAWN IN VIEW OF THE LACK OF CONSENSUS. WE DO NOT FORESEE RESURRECTION OF THIS PROPOSAL AT THIS POINT. PREVIOUSLY, AN AD HOC OPEN-ENDED WORKING GROUP ON THE FUTURE FINANCE REGISTRY, CHAIRED BY THE NETHERLANDS, AS WELL AS CANADA, THE CZECH REPUBLIC, FRANCE, GERMANY, HUNGARY, ITALY, SPAIN, SWEDEN, AND THE UNITED STATES SUBMITTED A DRAFT UN GENERAL ASSEMBLY RESOLUTION AUTHORIZING THE SECGEN TO ASSUME THE FUNCTION OF SUPERVISORY AUTHORITY, WHICH FAILED TO GAIN CONSENSUS. RUSSIA, INDIA, GREECE, AND ARGENTINA WERE AMONG THE STATES OBJECTING TO THE UN SERVING AS THE SUPERVISORY AUTHORITY.

THE ITEM WAS RETAINED AS A SINGLE ISSUE ITEM FOR 2009 TO ALLOW GENERAL REVIEW OF SUCH ISSUES AS MAY BE RELEVANT. SINCE DELIBERATIONS ARE EXPECTED TO RESUME AGAIN IN 2009, IT WOULD BE APPROPRIATE TO RETAIN THIS AS A SINGLE ISSUE ITEM.

¶12. AGENDA ITEM 9) CAPACITY BUILDING IN SPACE LAW: THE SUBCOMMITTEE TOOK UP THIS ITEM FOR THE FIRST TIME IN 2008 WITH A VIEW TO PROMOTING COOPERATION WITH AND ASSISTANCE TO DEVELOPING COUNTRIES IN ESTABLISHING PROGRAMS AIMED TO CREATE A BETTER UNDERSTANDING OF INTERNATIONAL AND NATIONAL SPACE LAW. THE U.S. DELEGATION WILL GIVE A STATEMENT ON THIS TOPIC. THE SUBCOMMITTEE ALSO AGREED TO REVIEW THE POSSIBILITY OF EXTENDING THE ITEM BEYOND THIS SESSION. THE U.S. DELEGATION SHOULD NOT OBJECT IF SO PROPOSED.

¶13. AGENDA ITEM 10) GENERAL EXCHANGE OF INFORMATION ON NATIONAL MECHANISMS RELATING TO SPACE DEBRIS MITIGATION MEASURES: ON THE BASIS OF A U.S. PROPOSAL, THE SUBCOMMITTEE AGREED TO INCLUDE THIS TOPIC AS A SINGLE ISSUE ITEM BEGINNING AT THIS SESSION. THE ITEM WILL PROVIDE AN OPPORTUNITY FOR MEMBER STATES TO REPORT ON MECHANISMS THEY ARE USING TO IMPLEMENT DEBRIS MITIGATION MEASURES BASED ON THE GUIDELINES ADOPTED BY THE IADC AND THE UN GENERAL ASSEMBLY. THE U.S. DELEGATION WILL MAKE A STATEMENT ON THIS TOPIC. THE U.S. DELEGATION SHOULD NOT OBJECT IF IT IS PROPOSED TO CONSIDER THIS TOPIC NEXT YEAR.

¶14. AGENDA ITEM 11 - GENERAL EXCHANGE OF INFORMATION ON NATIONAL LEGISLATION RELEVANT TO THE PEACEFUL EXPLORATION AND USE OF OUTER SPACE: ON THE BASIS OF A U.S. PROPOSAL, THE SUBCOMMITTEE AGREED IN 2007 ON A MULTIYEAR WORK PLAN TO EXCHANGE INFORMATION ON NATIONAL LEGISLATION RELATED TO SPACE ACTIVITIES. THE FIRST YEAR OF THE PLAN HAD MEMBER STATES PRESENT INFORMATION ON THEIR NATIONAL LEGISLATION RELATED TO GOVERNMENTAL AND NON-GOVERNMENTAL SPACE ACTIVITIES. THE UNITED STATES SUBMITTED A PAPER ON U.S. LEGISLATION TO THE SUBCOMMITTEE. UNDER THE WORK PLAN, A WORKING GROUP WILL BE ESTABLISHED AT THIS SESSION TO EXAMINE THE INFORMATION PROVIDED LAST YEAR IN ORDER TO DEVELOP AN UNDERSTANDING OF THE MANNER IN WHICH MEMBER STATES HAVE REGULATED GOVERNMENTAL AND NONGOVERNMENTAL SPACE ACTIVITIES. THE U.S. DELEGATION WILL MAKE A STATEMENT ON THIS TOPIC.

¶15. AGENDA ITEM 12 - PROPOSALS FOR NEW ITEMS: UNDER THE 1999 AGENDA REFORM PACKAGE, FUTURE AGENDA ITEMS WILL TAKE ONE OF TWO FORMS, BOTH OF WHICH MUST BE APPROVED BY THE FULL COMMITTEE. FIRST, THE LSC CAN PROPOSE DISCUSSIONS OF TOPICS LIMITED TO A SINGLE YEAR, EITHER FOR A LIMITED EXCHANGE OF INFORMATION AND VIEWS, OR TO ASSESS WHETHER THERE IS SUPPORT AND JUSTIFICATION FOR ADDITIONAL WORK. SECOND, MORE SUBSTANTIAL PROJECTS CAN BE UNDERTAKEN THROUGH MULTI-YEAR WORK PROGRAMS OF SET DURATION. THE U.S. DELEGATION WILL SUPPORT THE CONTINUANCE OF TWO EXISTING ONE-YEAR AGENDA ITEMS, SPECIFICALLY THE CONTINUED CONSIDERATION OF THE

UNIDROIT SPACE ASSETS PROTOCOL AND THE CONTINUED TRACKING OF THE WORK OF THE STSC CONCERNING NPS. WE ANTICIPATE THAT THERE MAY BE PROPOSALS FROM OTHER DELEGATIONS. USDEL SHOULD WORK WITH OTHER KEY DELEGATIONS IN ORDER TO OPPOSE, DEFER, MODIFY, OR REFINE PROPOSALS TO MAKE THEM CONSISTENT WITH U.S. INTERESTS. THE U.S. DELEGATION SHOULD SEEK GUIDANCE FROM WASHINGTON ON AREAS NOT COVERED BY THIS DELEGATION GUIDANCE.

AT THE LAST SESSION, MANY DELEGATIONS EXPRESSED CONCERN THAT THE SUBCOMMITTEE WILL BE IN NEED OF NEW SUBSTANTIVE ITEMS. IN THE PAST, WE HAVE SUCCEEDED IN BROKERING CONSENSUS ON NEW ITEMS THAT HAVE BEEN USEFUL, E.G., LAUNCHING STATE, REGISTRATION PRACTICE, THE UNIDROIT SPACE ASSETS PROTOCOL, AND, NOW, INFORMATION ON NATIONAL LEGISLATION, AND IMPLEMENTATION OF DEBRIS MITIGATION GUIDELINES. FOR THE MOST PART, HOWEVER, THE EXISTING LIST OF PAST PROPOSALS HOLDS NO PROMISE FOR CONSENSUS. THE UNITED STATES HAS AN AFFIRMATIVE INTEREST IN HAVING THE LSC FOCUS ON EXCHANGES OF INFORMATION AND PRACTICAL CONSIDERATIONS, RATHER THAN ABSTRACT THEORETICAL ISSUES.

ANTICIPATED PROPOSALS FOR NEW ITEMS FROM OTHER DELEGATIONS: BASED ON LAST YEAR'S LSC SESSION, WE ANTICIPATE THAT OTHER DELEGATIONS WILL REITERATE THE FOLLOWING PROPOSALS FOR NEW AGENDA ITEMS:

-- LEGAL ASPECTS OF SPACE APPLICATIONS FOR GLOBAL CLIMATE CHANGE (PROPOSED BY CHILE)

-- APPROPRIATENESS AND DESIRABILITY OF DRAFTING A UNIVERSAL COMPREHENSIVE CONVENTION ON INTERNATIONAL SPACE LAW (PROPOSED BY CHINA, GREECE, RUSSIA, AND UKRAINE)

-- REVIEW OF PRINCIPLES GOVERNING THE USE BY STATES OF ARTIFICIAL EARTH SATELLITES FOR INTERNATIONAL DIRECT TV BROADCASTING WITH A VIEW TOWARD A POSSIBLE FUTURE TREATY (PROPOSED BY GREECE)

-- DISCUSSION ON THE DEVELOPMENT OF AN INTERNATIONAL CONVENTION ON REMOTE SENSING (PROPOSED BY ARGENTINA, BRAZIL, CHILE, COLOMBIA, CUBA, ECUADOR, GREECE, MEXICO, AND PERU)

THE U.S. DELEGATION SHOULD SEEK TO OBTAIN MORE DETAILS ABOUT THIS LAST ITEM, AND SHOULD CONSULT WITH WASHINGTON PRIOR TO AGREEING TO ITS INCLUSION ON NEXT YEAR'S AGENDA.

DURING THE 50TH SESSION OF COPUOS, THE CHAIRMAN, GERARD BRACHET, PROPOSED THAT THE COMMITTEE THROUGH THE STSC COULD CONSIDER MEASURES THAT SHOULD BE TAKEN TO SUSTAIN LONG-TERM ACCESS TO AND USE OF OUTER SPACE BEARING IN MIND THE INCREASING NUMBER OF GOVERNMENTAL AND NON-GOVERNMENTAL ACTORS ENGAGED IN SPACE ACTIVITIES. (THE USG IS GENERALLY SUPPORTIVE OF THE PROPOSAL AND HAS PARTICIPATED IN INFORMAL CONSULTATIONS HOSTED BY FRANCE. SHOULD THIS TOPIC COME UP IN THE COURSE OF THE LSC, THE U.S. DELEGATION SHOULD REITERATE ITS VIEW THAT THE MATTER IS STILL THE SUBJECT OF INFORMAL CONSULTATIONS AND THAT IT IS ONE THAT CAN ONLY BE CONSIDERED IN THE STSC. SEE REFTTEL A, GUIDANCE FOR THE LAST SESSION OF THE STSC, FOR FURTHER BACKGROUND.

116. REGARDING THE ANTICIPATED PROPOSAL ON THE APPROPRIATENESS AND DESIRABILITY OF DRAFTING A COMPREHENSIVE CONVENTION ON INTERNATIONAL SPACE LAW, U.S. DELEGATION SHOULD EMPHASIZE THAT THE UNITED STATES DOES NOT SUPPORT THE CONSIDERATION OF NEGOTIATION OF A UNIVERSAL SPACE TREATY. THIS PROPOSAL HAS A LONG HISTORY, HAVING ORIGINATED WITH RUSSIA PRIOR TO THE 39TH SESSION OF COPUOS. AT THE 39TH SESSION OF THE LSC, URGING BY THE RUSSIANS GARNERED SUBSTANTIAL SUPPORT FROM THE G-77 AND EASTERN EUROPEANS, HOWEVER, THE U.S. DELEGATION WAS SUCCESSFUL IN KEEPING IT OFF THE LSC AGENDA. AT THE 41ST SESSION OF THE LSC, RUSSIA WAS UNABLE TO GENERATE SUBSTANTIAL INTEREST (ASIDE FROM BRAZIL, UKRAINE, ARGENTINA, CHINA, COLOMBIA, AND GREECE) IN ITS PROPOSAL. WITHIN THE WESTERN GROUP, DELEGATIONS AGREED THAT THE SUGGESTION WAS UNREALISTIC AND WOULD UNDERMINE EFFORTS TO ENCOURAGE GREATER ADHERENCE TO THE EXISTING TREATY REGIME. THE EUROPEAN SPACE AGENCY (ESA) COUNTRIES EXPRESSED THE VIEW THAT IT WAS NOT POSSIBLE TO CODIFY LARGE CHUNKS OF INTERNATIONAL LAW, BUT DEALING WITH

SPECIFIC ISSUES THROUGH NON-BINDING SETS OF PRINCIPLES (AS HAS BEEN THE PRACTICE OVER THE PAST TWO DECADES) WAS A MORE EFFECTIVE APPROACH. IF RUSSIA OR LIKE-MINDED DELEGATIONS PROPOSE THE CONSIDERATION OF A COMPREHENSIVE CONVENTION, USDEL SHOULD SEEK TO WORK WITH LIKE-MINDED DELEGATIONS TO EMPHASIZE THE UNACCEPTABILITY OF INITIATING ANY NEGOTIATIONS ON A UNIVERSAL SPACE TREATY. IT SHOULD ALSO EMPHASIZE THAT RUSSIA,S ACADEMIC INTEREST IN RE-WRITING THE SPACE TREATIES WOULD BE A SERIOUS IMPEDIMENT TO THE PROGRESS THE LSC IS MAKING ON OTHER FRONTS.

¶17. THE PROPOSAL BY GRULAC STATES TO DEVELOP A CONVENTION ON REMOTE SENSING WAS INITIALLY RAISED IN 2002. IN 2003, IN RESPONSE TO THE 2002 DISCUSSION, BRAZIL PRESENTED A DETAILED PAPER AS TO WHY SUCH A CONVENTION IS NECESSARY AND DESIRABLE. USDEL WORKED CLOSELY WITH JAPAN, CANADA, AND FRANCE IN CONVINCING BRAZIL THAT CONSENSUS COULD NOT BE REACHED ON BRAZIL,S SUGGESTION TO REVIEW THE 1986 PRINCIPLES ON REMOTE SENSING. THE BRAZILIAN DELEGATION AGREED TO WITHDRAW THE PROPOSAL BUT NOTED IN A DETAILED STATEMENT THAT 1) THE ORIGINAL IDEA PRESENTED IN 2002 OF DRAFTING A NEW CONVENTION ON REMOTE SENSING WAS TOO AMBITIOUS AND RAISED MANY UNDERSTANDABLE CONCERNS; 2) THE PRESENT PROPOSAL OF REVIEWING THE PRINCIPLES WAS NOT INTENDED TO REOPEN THEM; AND 3) BRAZIL STRONGLY SUPPORTS COMMERCIAL REMOTE SENSING ACTIVITIES AND PROMOTING THE USE OF THAT TECHNOLOGY. IF RAISED AGAIN, U.S. DELEGATION SHOULD OPPOSE ANY MOVE TO REVIEW, CHANGE, OR STUDY THE PRINCIPLES RELATING TO REMOTE SENSING OF THE EARTH FROM OUTER SPACE AND MAKE CLEAR THAT THE UNITED STATES WILL NOT JOIN CONSENSUS ON ANY MOVE TO REVIEW, STUDY OR DEVELOP A CONVENTION ON REMOTE SENSING. USDEL SHOULD STRESS THAT THE PRINCIPLES ARE WORKING WELL AND DO NOT NEED TO BE REVIEWED OR CHANGED.

THE U.S. DELEGATION MAY ALSO DRAW ON THE FINDINGS OF THE INTERNATIONAL LAW ASSOCIATION (AN OBSERVER MEMBER OF COPUOS) THAT EXPLAIN WHY A TREATY IS NOT THE APPROPRIATE MECHANISM, BUT STATE RATHER THAT THIS ISSUE IS BETTER ADDRESSED THROUGH NATIONAL MEANS. IN 1982, THE UNGA ADOPTED BY VOTE A SET OF NON-BINDING PRINCIPLES ON THE USE BY STATES OF SATELLITES FOR DIRECT TV BROADCAST. THE UNITED STATES VOTED AGAINST THE RESOLUTION. CONSEQUENTLY, WE WOULD NOT SUPPORT REVIEWING THOSE PRINCIPLES WITH A VIEW TO NEGOTIATING A TREATY BASED ON THAT TEXT.

¶18. IN DISCUSSING POTENTIAL DISCUSSION ITEMS AND/OR ITEMS WITH WORK PLANS, THE FOLLOWING CONSIDERATIONS SHOULD BE KEPT IN MIND:

-- AS NOTED ABOVE, IN 1999, COPUOS ADOPTED A REVISED AGENDA STRUCTURE INTENDED TO REVITALIZE LSC DISCUSSION BY PROVIDING STRUCTURED OPPORTUNITIES FOR EXPANDED SUBSTANTIVE DISCUSSIONS OF LEGAL ISSUES SUCH AS THOSE ASSOCIATED WITH COMMERCIALIZATION. ANY SUCH DISCUSSIONS WOULD BE FOR THE PURPOSE OF CLARIFYING ISSUES AND THEIR IMPLICATIONS, WITH NO IMPLICATION THAT THE DISCUSSIONS WILL NECESSARILY LEAD TO THE DEVELOPMENT OF LEGAL PRINCIPLES OR STANDARDS.

-- GIVEN THE PROGRESS THAT HAS BEEN MADE IN REFORMING THE UN GENERALLY AND THE LSC IN PARTICULAR, MAINTAINING U.S. LEADERSHIP IN THE SUBCOMMITTEE AND COHESION AMONG THE G-8 COUNTRIES IN OUTER SPACE AFFAIRS ARE CRITICAL AND SHOULD BE TAKEN INTO ACCOUNT IN THE U.S. DELEGATION,S WORK ON OTHER PROPOSALS.

-- THE U.S. DELEGATION SHOULD OPPOSE ANY PROPOSALS THAT IT BELIEVES WOULD IMPEDE TECHNOLOGICAL DEVELOPMENTS AND ACCESS TO SPACE, OR WOULD BE QUESTIONABLE IN TERMS OF U.S. FOREIGN POLICY AND NATIONAL SECURITY CONCERNS AND THE U.S. NATIONAL SPACE POLICY.
CLINTON